

FILED

1 Deon L. Thomas, Pro Se'
2 14626 Red Gum Street
3 Moreno Valley, CA 92555
4 951-413-9071/951-242-7015
5 dlthomas32@gmail.com

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8 CLERK, U.S. DISTRICT COURT
9 CENTRAL DIST. OF CALIF.
10 LOS ANGELES
11 BY AP

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13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA

15 Deon L. Thomas Pro Se'
16 Plaintiff

17 V.

18 Bleier & Cox LLP
19 Defendant

20 Co-Defendants:

21 NCO Financial Systems, Inc., CAPITAL ONE, aka
22 CAPITAL ONE, NATIONAL ASSOCIATION, CAPITAL
23 ONE FINANCIAL CORP, CAPITAL ONE BANK (USA),
24 N. A., Capital One Bank (USA), N.A. ("COBUSANA")

25 Does 1 through 10

1 Case No: 2:11-cv-04428 AHM (opX)

2 PLAINTIFF'S NOTICE AND MEMORANDUM IN
3 SUPPORT TO THE MOTION FOR DEFAULT
4 JUDGMENT

5 Judge: A. Howard Matz

6 Date: August 22, 2011

7 Location: Los Angeles-Spring Street, 14-Spring St. Floor

8 Type of motion: Civil

9 Time: 10:00

10 PLAINTIFF'S NOTICE AND MEMORANDUM IN SUPPORT TO THE DEFAULT JUDGMENT

11 This matter comes before the Honorable Court on pending motions filed by the parties, including
12 Plaintiff's "Motion for Default Judgment" (Docket No. 19) and Defendant's "Opposition to Plaintiff's
13 Motion for Default Judgment" (Docket No. 23). For reasons set forth below, the Court should grant
14 Plaintiff Motion for Default Judgment. In this action, Plaintiff Deon L. Thomas proceeds *pro se* and
15 properly served upon the Co-Defendant CAPITAL ONE, aka CAPITAL ONE, NATIONAL ASSOCIATION,
16 CAPITAL ONE FINANCIAL CORP., CAPITAL ONE BANK (USA), N. A., Capital One Bank (USA), N.A.
17 ("COBUSANA") and presented allegations under the 15 U.S.C. § 1681 *et seq.* Fair Credit Reporting
18 Act (FCRA). The Plaintiff properly motioned the court for default judgment in accordance to the
19 Federal Rules of Procedure 4 & 55.

1 **ARGUMENT**

2 **This Court Should Grant and Consider The Motion For Default Judgment Because Co-Defendant Has**
3 **Failed To Comply With The Rules.**

4 Plaintiff's motion should be granted, because Co-Defendant has failed to meet the requirements of
5 Rule 12 of Federal Rule of Civil Procedure. The rule states the following:

6 (a) Time to Serve a Responsive Pleading.

7 (1) In General.

8 Unless another time is specified by this rule or a federal statute, the time for serving a
9 responsive pleading is as follows:

10 (A) A defendant must serve an answer:

11 (i) within 21 days after being served with the summons and complaint; or

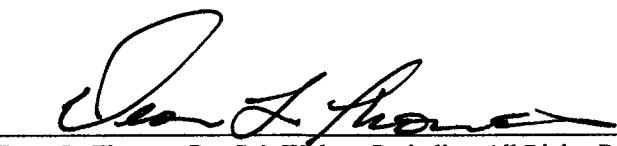
12 (ii) if it has timely waived service under Rule 4(d), within 60 days after the request for a
13 waiver was sent, or within 90 days after it was sent to the defendant outside any judicial
14 district of the United States.

15 (B) A party must serve an answer to a counterclaim or crossclaim within 21 days after
16 being served with the pleading that states the counterclaim or crossclaim.

17 (C) A party must serve a reply to an answer within 21 days after being served with an
18 order to reply, unless the order specifies a different time.

19 The Co-Defendant had 21 days to respond and the Co-Defendant had failed to do so as required by
20 the summons and complaint outline in Rule of Civil Procedures. The clerk of the court received the
21 summons and complaint, placed the court stamp and certified the document as (Docket No. 12),
22 and it is available to be seen on PACER. The Co-Defendant was properly served. The Co-Defendant
23 Lawyers Hunter R. Eley or Hemmy So, could have asked for an extension of time to file an answer,
24 but they failed to do so, they should be fully aware and well versed on the rules and thus should be
25 held accountable. Based on the Rules of Civil Procedure the Plaintiff is due Default Judgment.

26 Respectfully submitted this 2 day of August 2011.

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29 Deon L. Thomas, Pro Se', Without Prejudice, All Rights Reserved
30 14626 Red Gum St.
31 Moreno Valley, CA 92555
32 951-242-7015/951-413-9071
33 <dlthomas32@gmail.com>

CERTIFICATE OF SERVICE

I Jascelin B. Thomas, do hereby certify that I am not a party to the cause herein, and that on August 2, 2011, I served the PLAINTIFF'S NOTICE AND MEMORANDUM IN SUPPORT TO THE DEFAULT JUDGMENT upon the counsel, Hunter R. Eley, Hemmy So of Doll Amir & Eley LLP, named below by depositing in the United States mail, one copy of the original filed/entered herein a separate sealed envelope to the address shown below with postage full pre-paid.

Doll Amir & Eley LLP
Hunter R. Eley, Hemmy So
1888 Century Park East, Ste. 1850
Los Angeles, CA. 90067

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 8/2/11


(signature)

Joscelin B. Thomas
14626 Red Gum St.
Moreno Valley, CA 92555